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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,329

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Toshiaki Hiraki

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7590

08/23/2007

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EXAMINER

RAMPURIA, SHARAD K

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

08/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/530,329		HIRAKI ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Sharad Rampuria		2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

I. The Art Unit location of this application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

#### ***Disposition of the claims***

II. The current office-action is in response to the Amendment - After Non-Final Rejection filed on 05/18/2007.

Accordingly, Claims 5-8 are imminent for further assessment as follows:

#### ***Claim Rejections - 35 USC § 112***

III. The following is a quotation of the **second** paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, the newly submitted claims “A controller that controls one or both of the generating process in the generator” (see last paragraph of claim 5) renders the claim indefinite because the phrase “one or both” has an alternate meaning that does not positively recognize the claimed limitation(s).

***Claim Rejections - 35 USC § 102***

IV. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 5-8 are rejected under 35 U.S.C. 102 (e) as being anticipated by **Uchida et al.**

[US 6532364] *hereinafter* **Uchida**.

As per claim 5, **Uchida** teaches:

A mobile station apparatus (Abstract, Col.11; 8-28) comprising:

A measurer that measures reception quality of a received signal; (e.g. determining the timing delay based on the channel quality; Col.13; 60-Col.14; 9, and handover; Col. 12; 54-62) and

A generator that generates a downlink channel quality indicator based on reception quality of a received signal; (e.g. determining the timing delay based on the channel quality; Col.13; 60-Col.14; 9)

A transmitter that transmits the downlink channel quality indicator; (e.g. determining the channel quality; Col.13; 16-39)

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A detector that detects a change timing a base station apparatus of a destination of the downlink channel quality indicator changes from a first base station apparatus to a second base station apparatus; (e.g. determining the timing delay based on the channel quality; Col.13; 60-Col.14; 9, and handover; Col. 12; 54-62) and

A controller that controls one or both of the generating process in the generator and the transmission process in the transmitter according to a detection timing in the detector, when the change timing comes between a measurement start timing of the reception quality and a transmission end timing of the downlink channel quality indicator. (e.g. controlling the handover based on the channel quality; Col.13; 60-Col.14; 9 and Col.14; 10-25)

As per claim 6, **Uchida** teaches:

The mobile station apparatus of claim 5, wherein, when the detection timing comes before the measurement start timing, the controller has the generator generate the downlink channel quality indicator for the second base station apparatus and has the transmitter transmit the downlink channel quality indicator to the second base station apparatus. (e.g. determining the timing delay based on the channel quality; Col.13; 60-Col.14; 9, and handover; Col. 12; 54-62)

As per claim 7, **Uchida** teaches:

The mobile station apparatus of claim 5, wherein, when the detection timing comes between the measurement start timing and the transmission end timing, the controller has the transmitter stop transmitting the downlink channel quality indicator. (e.g. determining the timing delay based on the channel quality; Col.13; 60-Col.14; 9, and handover; Col. 12; 54-62)

**Claims 8** is a channel quality indicator control method claim corresponding to the mobile station apparatus claim 5 respectively, and rejected under the same rationale set forth in connection with the rejection of claim 5 respectively, above.

As a further review of Applicant's amendments and arguments, it is found that the previous cited art **Uchida** still teaches the newly added claimed limitations as shown in the above rejection.

#### ***Conclusion***

V. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

[EBC@uspto.gov](mailto:EBC@uspto.gov).

/Sharad Rampuria/  
Patent Examiner  
Art Unit 2617